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United States of America

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**BZ**

UNITED STATES OF AMERICA,

CV

07

Civil No.:

6162

Plaintiff,

AT LAW AND IN ADMIRALTY

v.

Tackle, apparel, furnishings, spares, tools,  
equipment and certain other appurtenances of  
the SS INDEPENDENCE (O.N. 261147),  
in rem,

DECLARATION OF JEANNE M.  
FRANKEN IN SUPPORT OF  
APPLICATION FOR ISSUANCE OF  
ORDER FOR WARRANT OF ARREST

Defendant.

I, Jeanne M. Franken, hereby declare as follows:

1. I am a trial attorney in the Department of Justice, Civil Division, and one of the

1 attorneys for the United States in this matter. I make this declaration based upon personal  
2 knowledge or upon information officially furnished to me.

3 2. With respect to the application of the United States for an order pursuant to  
4 Supplemental Admiralty Rule C(3) of the Federal Rules of Civil Procedure and Local  
5 Admiralty Rule 3-1 for the issuance of a warrant of maritime arrest, I state as follows:

6 a. The United States has filed a verified complaint herein for the  
7 foreclosure of a first preferred ship mortgage (the "mortgage") on the named defendant *res*,  
8 i.e., certain of the tackle, apparel, furnishings, spares, tools, equipment and other  
9 appurtenances of the SS INDEPENDENCE (O.N. 261147), in rem. The mortgage falls  
10 within the scope of 46 U.S.C. §31301, et seq. As described more fully in the complaint, the  
11 mortgage secured amounts due the United States by Great Independence Ship Co., which at  
12 times material hereto was the sole owner of the vessel (the "shipowner").

13 b. The shipowner failed to make payments required by the relevant  
14 mortgage and security agreement, thereby committing a default under the mortgage.  
15 Pursuant to 46 U.S.C. §31325, the lien of the mortgage may be enforced by the United States  
16 by actions in rem in admiralty. Furthermore, 46 U.S.C. §31325(c), vests original and  
17 exclusive jurisdiction of all such suits in the District Courts of the United States.

18 c. The shipowner filed for bankruptcy protection, but relief was obtained  
19 from the bankruptcy court to proceed against the vessel in rem, and anything appurtenant to  
20 the ship. The vessel then was taken to the United States Maritime Administration's Reserve  
21 Fleet in Suisun Bay, California, which is located in the Eastern District of California. Some  
22 items from the ship's gift shop had been removed for safekeeping to a United States  
23 Maritime Administration warehouse in Alameda, California and some of which to a United  
24 States Maritime Administration safe in San Francisco, California, both in the Northern  
25 District of California and, thus, outside the Eastern District of California which had in rem  
26 jurisdiction of the vessel *res*.

27 d. The United States then filed an action in the Eastern District of  
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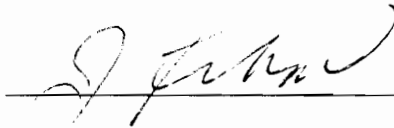
1 California to foreclose on its aforesaid mortgage against the SS INDEPENDENCE itself,  
2 which, as stated, was located in Suisun and within the jurisdiction of the Eastern District.

3 e. The Vessel was subsequently arrested where it was located in the  
4 Eastern District, sold by the Marshal, and the sale confirmed. The sale proceeds were  
5 applied to the debt owing to the United States, upon which an outstanding deficiency  
6 remains, as stated in the accounting attached to the complaint filed herein.

7 f. During the pendency of the aforesaid action in the Eastern District of  
8 California, the aforesaid appurtenances of the vessel from its gift shop were maintained  
9 within the jurisdiction of the Northern District of California by the United States Maritime  
10 Administration at its said facilities in Alameda and San Francisco. Those items are the  
11 named defendant *res* herein. Arrest and sale of the latter *res* will finally conclude litigation  
12 involving the SS INDEPENDENCE, and its appurtenances, etc.

13 I verify under penalty of perjury, in accordance with 28 U.S.C. § 1746, that the  
14 foregoing is true and correct.

15 Executed this 5th day of December 2007.

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17 JEANNE M. FRANKEN  
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